

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 32-35 are pending in this case.

In the outstanding Official Action, Claims 32-35 were rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over Claims 1-4 of U.S. Patent No. 6,798,976 in view of U.S. Patent No. 6,157,769; and Claims 32-35 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over Claims 32-35 of U.S. Patent Application No. 10/801,058.

Claims 32-35 are amended herewith. No new matter is added.

The outstanding rejections are respectfully traversed in light of the terminal disclaimer submitted herewith.

The filing of a terminal disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection. The "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection." *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991). Accordingly, Applicants filing of the attached disclaimer is provided for facilitating a timely resolution to prosecution only, and should not be interpreted as an admission as to the merits of the obviated rejection.

Application No. 10/801,051  
Reply to Office Action of February 27, 2006

Accordingly, the outstanding double patenting rejections are traversed and the pending claims are believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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